

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MALIBU MEDIA, LLC,

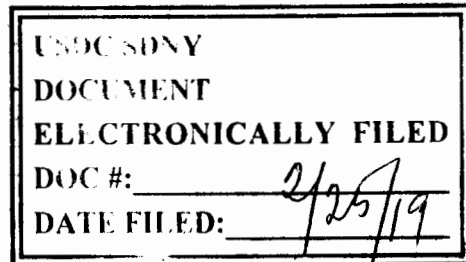
Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
207.237.88.54,

Defendant.
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Case No. 1:18-cv-08693-VM

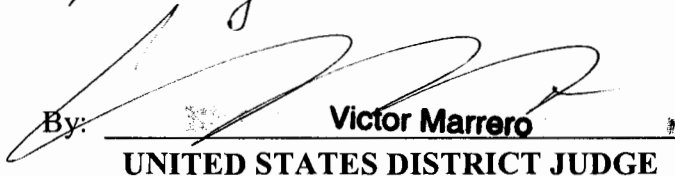


**ORDER ON PLAINTIFF'S SECOND MOTION FOR EXTENSION OF TIME WITHIN
WHICH IT HAS TO EFFECTUATE SERVICE ON JOHN DOE DEFENDANT**

THIS CAUSE came before the Court upon Plaintiff's Second Motion for Extension of Time Within Which it Has to Serve John Doe Defendant with a Summons and Complaint (the "Motion"), and the Court being duly advised in the premises does hereby:

ORDER AND ADJUDGE: Plaintiff's Motion is granted. Plaintiff shall have until April 9, 2019, to effectuate service of a summons and Complaint upon John Doe Defendant.

SO ORDERED this 25th day of February, 2019.

By:  **Victor Marrero**
UNITED STATES DISTRICT JUDGE

KEVIN T. CONWAY, ESQ.
ATTORNEY AT LAW
LICENSED IN
N.Y., N.J., CT.

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c/o DeCotiis, Fitzpatrick, Cole & Giblin, LLC
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February 24, 2019

The Honorable Judge Victor Marrero
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

***Re: 1:18-cv-08693-VM Plaintiff's Second Letter Motion for Extension of Time within
Which to Effectuate Service on John Doe Defendant***

Dear Judge Marrero:

Pursuant to Fed. R. Civ. P. 4(m), Plaintiff, Malibu Media, LLC, move for entry of an order extending the time within which Plaintiff has to serve the John Doe Defendant with a Summons and Complaint, and states:

1. Plaintiff commenced this action against the internet subscriber assigned IP 207.237.88.54 ("Defendant") on September 23, 2018, at which time it filed a complaint alleging that Defendant copied and distributed one or more of Plaintiff's copyrighted works, all without Plaintiff's consent. *See* CM/ECF 1. Plaintiff asserted a claim for direct copyright infringement, and requested that Defendant delete and permanently remove, and be enjoined from continuing to infringe, Plaintiff's copyrighted works. *See id.*

2. On October 1, 2018, Plaintiff was granted leave to serve a third-party subpoena on Defendant's ISP, RCN Telecom Services, LLC., to obtain the Defendant's identifying information [CM/ECF 7]. Plaintiff issued the subpoena on October 5, 2018 and expected to receive the ISP's

response on or about November 16, 2018.

3. On or about November 25, 2018, Plaintiff followed up with Comcast regarding pending release of name and was notified by ISP representative that there was no record of the subpoena and therefore, Plaintiff would need to reissue the subpoena upon them. On November 29, 2018, Plaintiff reissued the subpoena and expected the ISP's response on or about December 13, 2018. On January 4, 2019 Plaintiff followed up with the ISP regarding pending subpoena response and on or about January 8, 2019 Plaintiff received Defendant's identifying information from the ISP.

4. Upon receipt of the subscriber's identifying information, Plaintiff conducted a thorough investigation and determined that a good faith basis exists to name the subscriber as the defendant infringer.

5. Pursuant to this Court's Order on Plaintiff's First Motion for Extension of Time Within Which It Has to Effectuate Service on John Doe Defendant, [CM/ECF 9], Plaintiff was required to effectuate service on the Defendant no later than February 25, 2019.

6. Procedurally, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Complaint on Defendant be extended until at least forty-five (45) days, or until April 9, 2019. The additional time will allow Plaintiff to amend the complaint, obtain the summons and effectuate service.

7. This motion is made in good faith and not for the purpose of undue delay.

8. None of the parties will be prejudiced by the granting of this extension.

WHEREFORE, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Complaint on Defendant be extended until April 9, 2019. A proposed order is attached for the Court's convenience.

Dated: February 24, 2019

Respectfully submitted,

By: /s/ Kevin T. Conway
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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2019, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ Kevin T. Conway